

MHCC050063622022



**IN THE COURT OF SESSIONS AT DINDOSHI
(BORIVALI DIVISION), GOREGAON, MUMBAI**

ANTICIPATORY BAIL APPLICATION NO.1937 OF 2022

IN

(Crime No.1015 of 2022 of Kasturba Marg Police Station)

Hitesh S/o. Bhupendra Shah,

Age – 35 years Occ.: - Business

Residing at – Flat no.803, 8th Floor, “I”-wing,

Building no.1/2, Ekta Bhoomi Gardens II CHSL,

Ekta Bhoomi Garden, Datta Pada,

Near Honda Service Centre,

Borivali (East), Mumbai – 400 066.

..Applicant

Vs

State of Maharashtra

(through the P.S.O. of

Kasturba Marg Police Station, Mumbai)

..Respondent

Ld. Advocate Shri. A. M. Saraogi for the applicant.

Ld. APP Smt. Poornima Chauhan for the State/respondent.

**CORAM : SHRI A.R. QURESHI
ADDITIONAL SESSIONS JUDGE,
COURT ROOM NO.06.**

DATE : 20th DECEMBER, 2022

ORAL ORDER

1. Applicant namely “Hitesh S/o. Bhupendra Shah,” had moved this application u/s.438 of Cr.P.C. for seeking direction to release him on anticipatory bail apprehending arrest in connection with crime no.1015 of

2022 for the offences punishable under section 420, 406 of Indian Penal Code, registered with Kasturba Marg Police Station, Mumbai.

2. Read application, admittedly it is second anticipatory bail application as pointed out by learned counsel for the applicant. Further perused report of IO vide Exh.2 which is treated as say of prosecution/respondent.

3. Further perused order of Hon'ble Bombay High Court in anticipatory bail application no.2683 of 2022, that application is disposed of which was made by present applicant Hitesh S/o. Bhupendra Shah, vide order dated 30.09.2022 wherein Hon'ble Bombay High Court directed IO to follow the procedure prescribed u/sec.41-A of Cr.P.C. and in case if he comes to a conclusion that his custodial interrogation is necessary. IO shall record the reasons to that effect. Before effecting arrest, he shall give 72 hours notice in advance. Accordingly, anticipatory bail application in the Hon'ble Bombay High Court is disposed of.

4. Learned counsel for the applicant submits that successive bail application can be maintainable. There is partnership dispute in between complainant and applicant. There is leave and license agreement in between present applicant Hitesh S/o. Bhupendra Shah and complainant Kashyap Gopal Ambre and now he is submitted to release the applicant on bail.

5. Learned APP Smt. Poornima Chauhan for the respondent/state has strongly opposed this bail application as well as IO also opposed this bail application.

6. Learned APP for the respondent/state submits that the successive

anticipatory bail application shall not be entertained and in support of her contention she relied on ruling of Hon'ble Supreme Court of India in the matter of *G.R. Ananda Babu Vs. State of Tamil Nadu and ors. dated 28.01.2021 – Online Copy*, wherein Hon'ble Supreme Court of India in para 7 observed as follows -

“As a matter of fact, successive Anticipatory Bail Applicants ought not to be entertained and more so, when the Case Diary and the status Report, clearly indicated that the Accused (Respondent No.2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances can not be invoked for successive Anticipatory Bail Applications, once it is rejected by a Speaking Order and that too by the same Judge.”

I have gone through report of IO, Notice placed on record as well as previous order of this court rejecting bail application of applicant Hitesh S/o. Bhupendra Shah bearing application no.1323 of 2022 dated 19.08.2022.

7. No doubt this court has already rejected anticipatory bail application of this applicant and there is reasons/speaking order and this court is not inclined to allow this present bail application as it appears no change of circumstances. However, Hon'ble Supreme Court of India have specifically observed in the aforesaid ruling in the case of *G.R. Ananda Babu Vs. State of Tamil Nadu and ors.* that the specious reasons of change in circumstances can not be invoked for successive anticipatory bail application, once it is rejected by a speaking order and that too by the same judge.

8. In such circumstances I am not inclined to allow this application to release the applicant on anticipatory bail in the event of arrest. Therefore, application deserves to be rejected and applicant does not deserve relief as claimed u/sec.438 of Cr.P.C. for anticipatory bail. Hence, I proceed to pass

following order.

ORDER

1. Anticipatory Bail Application No.1937 of 2022 u/sec.438 of Cr.P.C. as filed by applicant **Hitesh S/o. Bhupendra Shah**, in Crime no.1015 of 2022 of the offences u/s.420, 406 of Indian Penal Code, registered with Kasturba Marg Police station, Mumbai is hereby rejected and disposed of accordingly.
2. Order pronounced in Open Court.
3. Proceeding closed.

Dt. 20/12/2022

Dictated on : 20/12/2022
Transcribed on : 21/12/2022
Corrected on : 21/12/2022
Signed on : 21/12/2022

**(A. R. Qureshi)
Additional Sessions Judge,
Borivali Div.,Dindoshi, Mumbai**

CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”

Date : 21/12/2022

Time : 12.30 P.M.

UPLOAD DATE AND TIME

Ms. R. A. Monde

(Stenographer Grade-I)

NAME OF STENOGRAPHER

Name of the Judge (with Court room no.)	HHJ A. R. Qureshi (C.R.No.6)
Date of Pronouncement of JUDGMENT/ORDER	20/12/2022
JUDGMENT/ORDER signed by P.O. on	21/12/2022
JUDGMENT/ORDER uploaded on	21/12/2022